

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES INVESTOR PROTECTION	:	
CORPORATION,	:	Adv. Proc. No. 08-01789 (SMB)
	:	
Plaintiff,	:	SIPA LIQUIDATION
	:	
-against-	:	(Substantively Consolidated)
	:	
BERNARD L. MADOFF INVESTMENT	:	
SECURITIES LLC,	:	
	:	
Defendant.	:	
-----X	:	
In re:	:	
	:	
BERNARD L. MADOFF,	:	
	:	
Debtor.	:	
-----X	:	
IRVING H. PICARD, trustee for the liquidation:	:	
of Bernard L. Madoff Investment Securities	:	
LLC	:	
	:	
Plaintiff,	:	
	:	
-against-	:	Adv. Proc. No. 10-04667 (SMB)
	:	
DAVID GROSS and IRMA GROSS	:	
	:	
Defendants.	:	
-----X	:	

ORDER TO SHOW CAUSE

WHEREAS, on or about May 18, 2013, David Gross initiated an action (the “FINRA Arbitration”) against Cohmad Securities Corp. (“Cohmad”), Maurice J. Cohn (“Cohn”), and Richard G. Spring with the Financial Industry Regulatory Authority.

WHEREAS, the Plaintiff (the “Trustee”) filed a *Motion for Enforcement of the Automatic Stay and the Issuance of a Preliminary Injunction*, dated October 30, 2013 (“Trustee’s Motion”) (ECF Doc. ## 26, 27) asserting that the FINRA Arbitration was a

violation of the Bankruptcy Code's automatic stay, 11 U.S.C. § 362(a), and seeking a preliminary injunction pursuant to 11 U.S.C. § 105(a);

WHEREAS, the Court entered an Order granting the Trustee's Motion, ruling that the FINRA Arbitration violated the automatic stay and issuing a preliminary injunction. (*See Order Enforcing Automatic Stay and Issuing Preliminary Injunction*, dated Dec. 4, 2013 ("December 2013 Order") (ECF Doc. # 38));

WHEREAS, in the adversary proceeding currently styled *Picard v. Jaffe*, Adv. Proc. No. 09-01305 (SMB) (the "Cohmad Action"), the Trustee settled his claims against, *inter alia*, Cohmad and the executors of Cohn's estate, (*see* ECF Adv. Proc. No. 09-01305 Doc. # 376-2), the Court approved the settlement pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, (*see* ECF Adv. Proc. No. 09-01305 Doc. # 380), and Trustee dismissed Cohmad and Cohn from the Cohmad Action. (*See* ECF Adv. Proc. No. 09-01305 Doc. # 382);

WHEREAS, in recent submissions to the Court, David Gross has inquired as to the status of the preliminary injunction barring the continuation of the FINRA Arbitration. (*See Submission*, docketed Jan. 29, 2019, at ECF pp. 29,¹ 34, 36, 38 (ECF Adv. Proc. No. 08-01789 Doc. # 18447); *Submission*, docketed Feb. 12, 2019, at ECF pp. 1, 19 (ECF Adv. Proc. No. 08-01789 Doc. # 18475); *Submission*, docketed Feb. 15, 2019, at ECF p. 4 (ECF Adv. Proc. No. 08-01789 Doc. # 18496)); now, therefore, it is hereby

ORDERED, that in light of the aforementioned settlements and binding precedent issued after the December 2013 Order, including *Picard v. Fairfield Greenwich Ltd.*, 762 F.3d 199 (2d Cir. 2014), the Trustee show cause before the undersigned in Room 723 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004 on March 27, 2019 at 10:00 a.m. (Eastern time), why the Bankruptcy Court's prior ruling and preliminary injunction should not be reconsidered on the grounds that (i) the FINRA Arbitration does not violate the Bankruptcy Code's automatic stay and (ii) the award of continued injunctive relief staying the FINRA Arbitration is inappropriate; and it is further

ORDERED, that the Trustee and the Defendants may each submit a memorandum not exceeding twenty-five pages in length by March 20, 2019 at 4:00 p.m. (Eastern time) addressing the two issues presented in the prior paragraph; and it is further

¹ "ECF p." refers to page numbers imprinted on the top of the page by the Court's electronic filing system.

ORDERED, that the Defendants may participate at the March 27 hearing telephonically by making arrangements with CourtCall, LLC.

Dated: New York, New York
February 26, 2019

/s/ *Stuart M. Bernstein*
STUART M. BERNSTEIN
United States Bankruptcy Judge

TO:

David Gross
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